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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 JOE J.W. ROBERTS, JR.,

9 Plaintiff,

10 v.

11 SNOHOMISH COUNTY, *et al.*,

12 Defendants.

Case No. C16-1464-TSZ-JPD

ORDER RE: PLAINTIFF'S MOTION  
FOR AN INDEPENDENT COURT  
REPORTER AND OTHER PENDING  
MOTIONS

13 This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before  
14 the Court at the present time on plaintiff's motions for appointment of an independent court  
15 reporter (Dkt. 67), for an order compelling defendants to release all videos of the incident on  
16 May 8, 2015 (Dkt. 68), for copies of lost or destroyed legal documents (Dkt. 69), and for  
17 reconsideration of the Court's Order denying in part plaintiff's motion for leave to amend his  
18 complaint (Dkt. 70). The Court, having reviewed the pending motions, and the balance of the  
19 record, hereby finds and ORDERS as follows:

20 (1) Plaintiff's motion for appointment of an independent court reporter (Dkt. 67) is  
21 DENIED. Plaintiff asks that the Court provide an impartial court reporter for purposes of his  
22 deposition, scheduled for May 17, 2017, because he doesn't trust defendants to produce an

23 ORDER RE: PLAINTIFF'S MOTION FOR  
AN INDEPENDENT COURT REPORTER  
AND OTHER PENDING MOTIONS - 1

1 accurate transcript of the deposition. It is conceivable that this motion is now moot given that  
2 the scheduled date for the deposition has now passed. The Court nonetheless addresses the  
3 merits of plaintiff's motion in the event that the deposition was postponed for some reason.

4 Defendants, in their response to plaintiff's motion, make clear that the court reporter who  
5 has been retained for purposes of plaintiff's deposition is not an employee of Snohomish County  
6 but is, instead, an independent contractor provided by a court reporting service in Olympia,  
7 Washington which is in no way affiliated with Snohomish County or the Snohomish County  
8 Prosecutor's Office. (*See* Dkt. 72.) Moreover, as defendants correctly note, Fed. R. Civ. P. 30  
9 provides ample protections to address the types of abuses posited by plaintiff in his motion.  
10 Plaintiff's motion for appointment of an independent court reporter is frivolous and is therefore  
11 rejected.

12 (2) Plaintiff's motion for an order compelling discovery (Dkt. 68) is DENIED.  
13 Plaintiff asks that defendants be directed to comply with a request to produce Snohomish County  
14 Jail videos of the incident on May 8, 2015 which gave rise to the claims asserted in this action.  
15 The jail video has been the subject of previous motions, including defendants' recent motion for  
16 a protective order. Because there is a page missing from plaintiff's motion, the Court cannot  
17 discern the precise nature of plaintiff's complaint at this point. However, it appears plaintiff may  
18 be arguing that there are multiple videos of the incident in question and not just the single video  
19 referenced by defendants in their motion for a protective order. Plaintiff asks that defendants be  
20 ordered to produce "any and all" videos of the incident. (*Id.* at 3.)

21 Defendants have not filed a response to plaintiff's motion so the Court has no way to  
22 gauge the accuracy of plaintiff's statements regarding apparent discrepancies in the number of

1 reported videos. The Court would be inclined to direct defendants to file a response to the  
2 motion but for the fact that the motion appears to be procedurally deficient. Plaintiff's motion to  
3 compel was not accompanied by the requisite certification that plaintiff conferred, or attempted  
4 to confer, with defendants' counsel regarding the video prior to filing his motion. *See* Fed. R.  
5 Civ. P. 37(a)(1); LCR 37(a)(1). Accordingly, plaintiff's motion must be denied, though this  
6 denial is without prejudice to plaintiff renewing his motion at a later date with the requisite  
7 certification.

8 (3) Plaintiff's motion re: lost or destroyed legal documents (Dkt. 69) is GRANTED in  
9 part. Plaintiff asserts in the instant motion that some of his legal materials were misplaced, or  
10 possibly destroyed, when he was transferred from the Washington Corrections Center to the  
11 Clallam Bay Corrections Center in April 2017. He asks that the Court send him copies of all of  
12 his previously filed motions, and that defendants re-send their discovery requests.

13 During the pendency of this case, plaintiff has filed numerous motions, many of which  
14 were irrelevant to these proceedings and/or redundant. The Court is willing to provide plaintiff  
15 copies of a limited number of his previous filings, but sees no purpose in providing plaintiff  
16 copies of motions that, arguably, should never have been filed in the first place. Plaintiff may  
17 review the docket and provide the Court with a list of the documents he wishes to receive copies  
18 of. The Court will review the list and provide copies of documents it deems necessary and  
19 appropriate.

20 With respect to defendants' discovery requests, it would be prudent for defendants to re-  
21 send any recent discovery requests which could have been lost when plaintiff was transferred  
22 between institutions in mid-April, and the Court so Orders.

23 ORDER RE: PLAINTIFF'S MOTION FOR  
AN INDEPENDENT COURT REPORTER  
AND OTHER PENDING MOTIONS - 3

1 (4) Plaintiff's motion for reconsideration (Dkt. 70) is DENIED. Plaintiff seeks  
2 reconsideration of a portion of this Court's May 4, 2017 Order denying plaintiff leave to amend  
3 his complaint to add a Public Records Act claim to this action. The Court based its ruling on the  
4 fact that any such claim would have been barred by the statute of limitations. (*See* Dkt. 63 at 3.)

5 Motions for reconsideration are disfavored and will ordinarily be denied "in the absence  
6 of a showing of manifest error in the prior ruling or a showing of new facts or legal authority  
7 which could not have been brought to its attention earlier with reasonable diligence." LCR  
8 7(h)(1). Plaintiff has not demonstrated any error in the Court's prior ruling. In the Public  
9 Records Act claim set forth in plaintiff's proposed second amended complaint, plaintiff alleged  
10 that he made a public records request "sometime between May 21st, 2015 and November 19th,  
11 2015" seeking video footage of the May 8, 2015 incident, and was told the video didn't exist.  
12 (*See* Dkt. 66 at 15.) Defendants, in their response to plaintiff's motion to amend, submitted  
13 evidence demonstrating that plaintiff made his Public Records Act request on May 25, 2015, and  
14 that the request was denied on June 5, 2015. (*See* Dkt. 58 at 5.) This Court concluded, based on  
15 defendants' evidence, that any Public Records Act claim would be barred by the one year statute  
16 of limitations set forth in RCW 42.56.550. (Dkt. 63 at 3.)

17 Plaintiff asserts in his motion for reconsideration that he sent an email to the Snohomish  
18 County Jail Public Records Administrator in October or November of 2015, and that the  
19 administrator refused to even acknowledge the request. (*See* Dkt. 70 at 7-8.) Assuming plaintiff  
20 did, in fact, submit a duplicate public records request on a date later than that reflected in  
21 defendant's evidence, the original rejection of the request would likely still govern the statute of  
22 limitations calculation. Plaintiff offers nothing by way of evidence or argument to demonstrate

1 that the Court's rejection of his attempt to add a Public Records Act claim to this action was  
2 erroneous and, thus, his motion for reconsideration is properly denied.

3 (5) The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
4 defendants, and to the Honorable Thomas S. Zilly.

5 DATED this 19th day of May, 2017.

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7 JAMES P. DONOHUE

8 Chief United States Magistrate Judge